

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STATE FARM MUTUAL
AUTOMOBILE INSURANCE
COMPANY,

Plaintiff,

Case No. 2:16-cv-13040
District Judge Sean F. Cox
Magistrate Judge Anthony P. Patti

v.

ELITE HEALTH CENTERS, INC.,
ELITE CHIROPRACTIC, P.C.,
ELITE REHABILITATION, INC.,
MIDWEST MEDICAL
ASSOCIATES, INC., PURE
REHABILITATION, INC., DEREK
L. BITTNER, D.C., P.C., MARK A.
RADOM, DEREK LAWRENCE
BITTNER, D.C., RYAN MATTHEW
LUKOWSKI, D.C., MICHAEL P.
DRAPLIN, D.C., NOEL H. UPFALL,
D.O., MARK J. JUSKA, M.D.,
SUPERIOR DIAGNOSTICS, INC.,
CHINTAN DESAI, M.D., MICHAEL
J. PALEY, M.D., DEARBORN
CENTER FOR PHYSICAL
THERAPY, L.L.C., MICHIGAN
CENTER FOR PHYSICAL
THERAPY, INC., and JAYSON
ROSETT

Defendants.

**ORDER OVERRULING DEFENDANT NOEL H. UPFALL, D.O.'S
OBJECTION TO STATE FARM'S SUBPOENA ISSUED TO FIFTH THIRD
BANK AND DENYING MOTION TO QUASH AND FOR PROTECTIVE
ORDER (DE 84)**

On or about November 28, 2017, Plaintiff State Farm Mutual Automobile Insurance Company (“State Farm”) issued a subpoena to Fifth Third Bank, requesting bank records concerning Noel Upfall, D.O., P.C., and Noel H. Upfall Revocable Trust, both of which are closely related to or under the control of Defendant Noel. H. Upfall, D.O. (DE 84-2.) Currently before the Court is Defendant Noel. H. Upfall, D.O.’s December 12, 2017 objection to State Farm’s subpoena issued to Fifth Third Bank and motion to quash and for protective order, and Plaintiff State Farm’s response. (DEs 84, 87, 88).

Judge Cox referred this motion to me on December 19, 2017 (DE 85), and a hearing was noticed for January 9, 2018. (DE 86). On the date set for hearing, attorneys Peter Joelson, Michael Rosenaft, and Hillary Eagan appeared in my courtroom, and the Court entertained oral argument.

Upon consideration of the motion papers and oral argument of counsel, and for all of the reasons stated on the record, which are herein incorporated by reference, Defendant Noel H. Upfall, D.O.’s objection to the above-referenced subpoena is **OVERRULED** and the motion to quash and for protective order (DE 84) is **DENIED**. Nothing in this Order precludes Defendant Noel H. Upfall, D.O., from designating any portion of the production made under the subpoena to Fifth

Third Bank as “Confidential” under the existing protective order (DE 82), nor does it preclude Plaintiff State Farm from challenging such designation.

IT IS SO ORDERED.

Dated: January 9, 2018

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

Certificate of Service

I hereby certify that a copy of the foregoing document was sent to parties of record on January 9, 2018 electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti